



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

John P. Wooldridge
252 Kaipii Pl.
Kihei, HI 96753

COPY MAILED

JUL 25 2006

OFFICE OF PETITIONS

In re Application of :
Luiz B. DaSilva :
Application No.: 10/803,574 : ON PETITION
Filed: March 17, 2004 :
Attorney Docket No: BL-4 NPROV :

This is in response to the petition under 37 CFR 1.137(b) filed March 13, 2006.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

This application became abandoned for failure to respond in a timely manner to the non-final Office action mailed December 1, 2004. The notice set a shortened statutory period for reply of three-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). A response was filed on May 5, 2005, with a request for an extension of time within the second month. On July 26, 2005, a notice was mailed informing applicant that the response of May 5, 2005, was unresponsive and allowed a period of one (1) month from its mailing date to respond. Extensions of the time set for reply were available pursuant to 37 CFR 1.136. A Request for Continued Examination (RCE) was filed on January 30, 2006, with a request for extension of time within the fifth month. On February 2, 2006, applicant was advised that the response of January 30, 2006, would not be entered because prosecution in the application was not closed and the RCE was improper. No further responses were received and the application became abandoned on January 27, 2006. A Notice of Abandonment was mailed on February 14, 2006.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

- (4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition does not satisfy the requirements of item (1) above.

Item (1) above has not been satisfied because of the failure to file a proper reply to the non-final Office action with the petition. Any renewed petition filed must be accompanied either a proper amendment or a continuing application.

Further correspondence with respect to this matter should be addressed as follows:

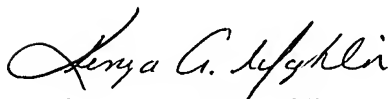
By mail:

Mail Stop Petitions
Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile:

(571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.



Kenya A. McLaughlin
Petitions Attorney
Office of Petitions